

STATE OF COLORADO

PUBLIC UTILITIES COMMISSION

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Executive Director



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Governor

August 15, 1997

VIA Federal Express

Office of the Secretary
Federal Communications Commission
Room 222, 1919 M Street, N.W.
Washington, D.C. 20554

RE: CC Docket No. 96-45 COMMENTS IN SUPPORT OF PETITIONS FOR
RECONSIDERATION

Dear Secretary:

The Colorado Public Utilities Commission submits the attached original and five (5) copies of its COMMENTS IN SUPPORT OF PETITIONS FOR RECONSIDERATION in the above referenced docket. Please return one copy, file-stamped, in the enclosed self-addressed, stamped envelope.

Also, we are sending nine (9) copies and an electronic media copy of the Comments, with the filename **copuc.814**, to Sheryl Todd, Common Carrier Bureau, by Federal Express Mail, on a labeled 3.5 inch diskette in IBM, WordPerfect 5.1 for Windows format in read only mode.

Sincerely,

A handwritten signature in cursive script that reads "David A. Beckett".

David A. Beckett
Assistant Attorney General
Attorney for the Colorado
Public Utilities Commission

cc: International Transcription Service, Inc.
Sheryl Todd, Common Carrier Bureau

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FCC MAIL ROOM

In the Matter of)
)
Federal-State Joint Board on) CC Docket No. 96-45
Universal Service)

COMMENTS IN SUPPORT OF
PETITIONS FOR RECONSIDERATION
BY THE COLORADO PUBLIC UTILITIES COMMISSION

Dated: August 15, 1997

The Colorado Public Utilities Commission ("Colorado Commission") hereby submits its comments in support of a portion of the Petition for Reconsideration submitted by the Wyoming Public Service Commission ("Wyoming Commission") on July 16, 1997. The portion supported by the Colorado Commission concerns the comments of the Wyoming Commission under the heading, "Federal Share of Universal Service Support," also known as the "25%-75% Split".

Insufficiency of Funds

As stated on page 2 of the Wyoming Commission's Petition for Reconsideration, section 254(b)(5) of the Federal Telecommunications Act of 1996 ("1996 Act") requires that, "There should be specific, predictable and sufficient Federal and State mechanisms to preserve and advance universal service." (Emphasis added). The Colorado Commission concurs with the Wyoming Commission in the belief that the FCC Report and Order ("Order") released May 8, 1997 in this docket does not follow this principle. Specifically, the Colorado Commission objects to Paragraph 269 of the Order where the

Commission concludes that "... the federal share of the difference between a carrier's forward looking cost of providing supported services and the national benchmark will be 25 percent." (Emphasis added). The Colorado Commission makes three points in support of its position:

First, twenty-five percent is a completely insufficient level of federal support to continue or advance universal service in western and rural states such as Colorado. In the past, the formula used to determine the appropriate level of support has been "fully funded interstate revenues/costs." Application of the previous formula resulted in the generation of 100% of the necessary funding from interstate revenues. Under the prior formula, the Commission supported 100% of the services, features, and functionalities it has defined as part of basic service. As a result, any additional state universal service funds could be used to address specific state service issues deemed necessary for basic service such as equal access, white page directory listings, and adequate "community of interest" local callings areas. Under the terms of the Order and the resulting reduction in federal support, the states must now use those state funds to support the portion of basic service historically funded by the federal universal service fund. This will result in a serious degradation in the quality of basic telecommunications service in high cost states such as Colorado. The Colorado Commission, therefore, urges the Commission to reconsider its adoption of the "25%-75% Split" formula.

Second, regardless of the formula adopted by the Commission in this docket, the 1996 Act requires that sufficient funds must be available to cover the high costs of installing and providing telecommunications services experienced by many of the states, including Colorado. In order to generate the necessary 100% level of funding, the Colorado Commission believes the Commission should first look to interstate revenues. If the funds required to provide the necessary level of support cannot be generated from solely federal sources of revenue, then the Colorado Commission believes

that the Commission should be permitted to generate the necessary funding from both interstate and intrastate revenues.

Third, and consistent with the Colorado Commission's previous comments in this docket, if the Commission uses combined interstate/intrastate end-user telecommunications revenues as a basis for determining each carrier's contribution to the federal universal service fund, the Commission should expressly provide, in its order following consideration of the issues raised for reconsideration, that states shall also be able to use combined interstate/intrastate revenue as a basis for determining each carrier's contribution to state universal service funds.

Violation of 1996 Act's "Reasonably Comparable" and "Equitable and Nondiscriminatory" Requirements

The Colorado Commission further concurs with the Wyoming Commission that implementation of the Order will violate three provisions of the 1996 Act. First, section 254(b)(3) of the 1996 Act would be violated because it calls for universal support mechanisms that will result in "access to telecommunications and information services . . . that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas." Second, section 254(b)(5) is not followed by the Commission in the Order as that section requires mechanisms that are "sufficient" in terms of preserving and advancing universal service. Finally, the Order is contrary to section 254(b)(4) of the 1996 Act since it does not ensure that "[a]ll providers of telecommunications services should make an equitable and nondiscriminatory contribution to the preservation and advancement of universal service." (Emphasis added). By requiring the States to contribute 75% of the necessary universal service funding, the Colorado Commission fails to see how these three requirements can be met.

Need for a Transition Period

Finally, the Colorado Commission also concurs with the Wyoming Commission that, if the Commission persists in adopting the 25% support level, a transition period of several years is needed by the states to absorb such a significant reduction in the level of support. Transition periods have been used in several other Commission cases when a shift in funding has occurred. A transition period gives states and telecommunications carriers time to absorb the changes and to modify their practices to mitigate the impact on local customer rates. The Colorado Commission respectfully submits that the public interest is served if rate impacts can be mitigated. In conclusion, the current Commission position to make the change in the universal serving funding formula with no transition or phase-in period will seriously impact local rates by requiring the customers of Colorado to bear the brunt of the costs directly.

WHEREFORE, for the reasons set forth above, the Colorado Commission respectfully requests that the Commission grant reconsideration of the Order.

COLORADO PUBLIC UTILITIES COMMISSION

A handwritten signature in cursive script, reading "David A. Beckett", is written over a horizontal line.

David A. Beckett
Assistant Attorney General
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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

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IN THE MATTER OF)
)
FEDERAL-STATE JOINT BOARD ON)
UNIVERSAL SERVICE)
)

CC Docket No. 96-45

CERTIFICATE OF SERVICE

I, Nelly Gonzales, hereby certify that I mailed an original and four (4) copies of the attached "COMMENTS IN SUPPORT OF PETITIONS FOR RECONSIDERATION BY THE COLORADO PUBLIC UTILITIES COMMISSION" this 15th day of August, 1997, by Federal Express overnight mail delivery, addressed as follows:

RE: CC Docket No. 96-45
OFFICE OF THE SECRETARY
Federal Communications Commission
Room 222, 1919 M Street, N.W.
Washington, D.C. 20554

and nine (9) copies and a electronic media copy on a 3.5" diskette IBM WordPerfect5.1 format, read only, labelled and accompanied by a cover letter, to:

RE: CC Docket No. 96-45
Sheryl Todd
Universal Service Branch
Accounting and Audits Division
Common Carrier Bureau
2100 M Street, N.W., Room 8611
Washington, D.C. 20554

and a copy by U.S. Mail upon each of the following:

The Commission's copy contractor:

RE: CC Docket No. 96-45
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Nelly Gonzales, Paralegal
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